



KATHLEEN M. WHITBY  
DIRECT DIAL: 314-333-3929

December 12, 2017

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

and via E-mail to: [chingcuanco.leonardo@epa.gov](mailto:chingcuanco.leonardo@epa.gov)

Leonardo Chingcuanco (C-14J)  
U.S. Environmental Protection Agency, Region 5  
Office of Regional Counsel  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Re: Request for Information Pursuant to Section 104(e) of CERCLA  
U.S. Smelter and Lead Refinery, Inc. Superfund Site  
Site Spill Identification Number: 053J  
Response by Alcatel-Lucent USA Inc., as corporate successor to Western Electric Company

Dear Mr. Cingcuanco:

This is the response of Alcatel-Lucent USA Inc. (ALU), to an Information Request (Request) date-stamped September 26, 2017 (copy attached) from the United States Environmental Protection Agency (EPA) concerning the U.S. Smelter and Lead Refinery, Inc. Superfund Site (the USS Lead Site or the Site) located in East Chicago, Indiana. The Request was addressed to ALU at its Murray Hill, New Jersey location. Please note that ALU is an indirectly wholly owned subsidiary of the French *société anonyme* Alcatel Lucent, SA, whose majority shareholder is Nokia Corporation.

By agreement with you, ALU's date for responding to the Request was extended to December 12, 2017. We appreciate that courtesy, and the information EPA and the U.S. Department of Justice (DOJ) has provided, or arranged to be provided, concerning the nexus link between ALU's corporate predecessor Western Electric Company and the Site.

ALU makes its answers to the Request without any admission of liability or of any issues or questions of fact or law, and without prejudice to any position, response, or defenses that ALU may take in the future concerning the Site. Further, ALU makes its answers subject to the following interpretations, limitations, objections, and comments:

1. ALU interprets the Request as seeking information relating only to this Site and not any other Superfund sites.
2. ALU's response to the Request, attached as Exhibit A, is provided on information and belief and as the result of diligent and good faith effort to answer the Request and find responsive information.

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Leonardo Chingcuanco  
December 12, 2017  
Page 2

3. ALU tenders its answers based on the results of its investigation to date. ALU reserves the right to supplement its responses if additional relevant information becomes available in the future.
4. ALU must object to the scope of the Request as overbroad and unduly burdensome. The Request seeks information covering the time period 1906 to 1985, which extends almost 80 years into the past. As should be expected, the passage of so much time seriously impacts ALU's capacity to find records or personnel who might have knowledge about any potential use of the Site.
5. ALU's records for time periods so far in the past were subject to normal corporate document retention policies and are far from complete. Knowledgeable employees have left the company through mergers and acquisitions, died, retired, or are no longer in contact. Records of document storage histories and retention are, at this point, incomplete and often completely unknown. The information sought by the Request is difficult to find or reconstruct and, indeed, may have never existed. Accordingly, while ALU has conducted a reasonably diligent investigation, it cannot, based on the currently available information, guarantee complete and comprehensive responses to all of the questions in the Request.
6. Finally, AT&T Corporation, one of ALU's corporate predecessors in interest for purposes of information requests such as this one, went through one of the largest corporate reorganizations in the nation's history (commencing in 1982 and concluding in 1984), when it divested the Bell Telephone System operating companies. ALU and its corporate predecessors continued to experience corporate divestitures, reorganizations, and mergers in 1996, 2006, and 2016. These various corporate restructurings have resulted in the early retirement, termination, and reassignment of hundreds of thousands of employees. During the course of all of these events, numerous Western Electric/AT&T/ALU buildings closed, manufacturing operations and facilities were shut down or sold, and the records of those past operations and facilities were packed up, shipped off to various purchasing entities or destinations, or discarded pursuant to then-applicable document retention policies or because the records were no longer relevant or useful.

ALU provides this summary of its corporate history and limitations to stress the heightened degree of difficulty ALU encounters in conducting the types of investigations required by EPA's Request — a level of difficulty above and beyond that caused by the mere passage of time. Given this reality, while ALU has conducted a reasonably diligent search of the records it considers most likely to contain information responsive to the Request, ALU may not have uncovered all information that could be responsive to the Request. In the event new information comes to light indicating that the information contained in this letter and the accompanying Exhibit A is no longer correct, we will so notify EPA.

As indicated on the attached Exhibit A, ALU itself has no documents or other information showing that ALU's predecessors Western Electric or AT&T had any contacts with the Site, including any use of the Site for recycling or waste disposal. The only documents we have access to concerning transactions with the Site were provided to us by EPA, and date back to 1912-1914 and



Leonardo Chingcuanco  
December 12, 2017  
Page 3

1927-1928. As expected for transactions that old, we have not located any current or former Western Electric or ALU employees who remember the Site or its owners or operators.

On December 1, 2017 we sent an email communication to Annette Lang of DOJ, with copies to you and other EPA and DOJ personnel, explaining how and why we believe that ALU's involvement with the Site is, at best, *de minimis* and more appropriately described as *de micromis*. A printout copy of that e-mail correspondence is attached to this response, and we ask that you include it in your records regarding ALU's nexus to the Site. As stated in that communication, based on the records provided to us by EPA, Western Electric's shipments to the Site total 1,200 tons out of a total Site throughput of between 2.250 million and 2.920 million tons. This represents between 0.053317% and 0.041083% of the total volume of lead-bearing material processed by the Site.

Additionally, on December 6, 2017, six companies who received general notice letters (GNL) for the Site based on their status as customers who sold or sent lead-bearing materials to the USS Lead facility, sent a letter to EPA and DOJ explaining why they believe that all of the named USS Lead facility customers collectively represent no more than a *de minimis* (less than 1%) contribution to the Site's processing throughput. ALU is one of the companies on whose behalf that letter was sent. Using the equitable allocation factors set out in that letter, the 0.053317% to 0.041083% share represented by Western Electric's 1,200 ton contribution to the Site's throughput should be further reduced to account for the contributions of the Anaconda Copper and DuPont/Chemours facilities, the U.S. Metals Recycling Company (USMRC)/USS Lead owner/operator share, and for the contributions of other, as yet unnamed, customers of USMRC/USS Lead.

We respectfully suggest that these allocation factor reductions are appropriate and should be applied to the 1,200 tons of lead-bearing materials which Western Electric appears to have sent to the USS Lead facility regardless of any other defenses available to ALU concerning this Site. We also suggest, however, that ALU has such other defenses available to it, the most notable of which is the "no intent to dispose" defense to CERCLA liability set out by the U.S. Supreme Court in *Burlington Northern & Santa Fe Railway Co. v. United States*, 556 U.S. 599 (2009), and its progeny.

More specifically, we believe that if required to do so in an administrative or judicial proceeding, ALU could establish that during the 1912-1914 and 1927-1928 time periods, a company who sold or sent lead-bearing materials to a secondary lead smelting facility had absolutely no "intent to dispose" of residual quantities of lead or other metals as a result of such a transaction. This absence of any "intent to dispose" existed even if the company then purchased or received back the vast majority of "its" lead and other metal content from the smelter facility. Lead and other metals were valuable commodities with market-based prices. Companies used secondary lead processing to reclaim the lead and other metal content from their lead-bearing byproduct or scrap materials so that they could use it to make new products. It would have been inconceivable to Western Electric or other manufacturers in the 1910's and 1920's to "waste" lead or other metals by disposing of them instead of recycling them.



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Leonardo Chingcuanco  
December 12, 2017  
Page 4

Finally, we very much appreciate EPA's sharing the documents it has recovered from the archives of the Site's current and former owners and operators. If EPA acquires new documentation or information indicating additional transactions or information involving Western Electric or other ALU predecessor companies and the Site, please let us know and we will review it.

ALU believes this letter and its attachment fully satisfy EPA's Request. Please contact me if you have questions or concerns about this matter, or if you wish to discuss this response further.

Very truly yours,

Kathleen M. Whitby

Enclosure

Cc via email: A. Lang, DOJ  
G. Fisher, ALU



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

SEP 26 2017

**CERTIFIED MAIL**

**RETURN RECEIPT REQUESTED**

7009 1680 0000 7663 0665

**Lance B. Boxer**  
**Executive Officer**  
**Alcatel-Lucent USA Inc.**  
**600-700 Mountain Avenue**  
**Room 2F-177**  
**Murray Hill, NJ 07974**

Re: Request for Information Pursuant to Section 104(e) of CERCLA  
U.S. Smelter and Lead Refinery, Inc. Superfund Site  
Site Spill Identification Number: 053J

To Whom It May Concern:

This letter seeks the cooperation of Alcatel-Lucent USA Inc. ("Alcatel-Lucent" or "Respondent" or "you") in providing information and documents relating to contamination at the U.S. Smelter and Lead Refinery, Inc. Superfund Site ("USS Lead Site" or "Site") in East Chicago, Indiana.

EPA is responding to the release or threat of release of hazardous substances, pollutants or contaminants at the Site and is seeking additional information concerning the activities, materials and parties that may have contributed to contamination at the Site. Information available to EPA indicates that Western Electric Company Inc., to which EPA believes Alcatel-Lucent is a successor, arranged for the treatment or disposal of lead-bearing materials, including lead dross, at the USS Lead Site. EPA is seeking additional information from you related to those arrangements for treatment or disposal.

Further, EPA is interested in Alcatel-Lucent's ability to finance response actions in connection with the lead contamination of soils within the residential area of the Site. The residential area of the Site consists primarily of single family homes and a public housing complex, construction of which occurred over the last century and paralleled the rise of industrial enterprise in the surrounding area.

EPA has determined that lead and arsenic generated by neighboring industrial sources contaminated residential soils, and possibly groundwater, within the Site. That contamination may pose a risk to human health and the environment. EPA is now in the process of addressing that contamination. This information request is part of that process.

We encourage you to give this matter your immediate attention and request that you provide a complete,

accurate and truthful response to the enclosed questions (Enclosure C) within thirty (30) calendar days of your receipt of this letter. Instructions and Definitions (Enclosures A and B, respectively) as well as a Declaration (Enclosure D) also have been enclosed to assist you with completing your response.

Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), gives the EPA information gathering authority that allows the EPA to require persons to furnish information or documents relating to:

- (a) The identification, nature and quantity of materials which have been or are generated, treated, stored or disposed of at facility or transported to facility;
- (b) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a facility; and
- (c) Information relating to the ability of a person to pay for or to perform a cleanup.

While the EPA seeks your cooperation in this investigation, compliance with this request for information is required by law. Please note that false, fictitious or fraudulent statements or representations may subject you to civil or criminal penalties under federal law.

Some of the information the EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish the EPA to treat the information confidentially, you must advise the EPA of that fact by following the procedures outlined in Enclosure A, including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information that may assist the agency in its investigation of the Sites or may be responsible for the contamination at the Sites, that information should be submitted within the time frame noted above.

This request for information is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq.

Your response to this request for information should be mailed to:

Leonardo Chingcuanco (C-14J)  
U.S. Environmental Protection Agency, Region 5  
Office of Regional Counsel  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

If you have additional questions about the history of the Site, the nature of the environmental conditions at the Sites or the status of cleanup activities, please visit EPA's website <https://www.epa.gov/uss-lead-superfund-site>. You also may contact me at (312) 886-7236, or [chingcuanco.leonardo@epa.gov](mailto:chingcuanco.leonardo@epa.gov).



We appreciate and look forward to your prompt response to this Information Request.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'L' followed by a cursive 'C' and a horizontal stroke.

Leo Chingcuanco, Assistant Regional Counsel  
Office of Regional Counsel

Enclosures

- A Instructions
- B Definitions
- C Requests
- D Declaration

Enclosure A  
Information Request  
USS Lead Site

**INSTRUCTIONS**

1. Answer Each Question Completely. You must provide a separate answer to each question and subpart set forth in this Information Request. Incomplete, evasive, or ambiguous answers shall constitute failure to respond to this Information Request and may subject you to the penalties set out in the cover letter.
2. Response Format and Copies. Provide the responses to this Information Request and copies of all requested documents either electronically or on paper (hard copy). Your submission, whether electronic or hard copy, must include an index that lists all the responsive documents provided, and that indicates where each document is referenced in the written response, and to which question or questions each document is responsive.

Any documents you determine to be Confidential Business Information (“CBI”) must be segregated out and submitted in a separate folder or on a separate compact disc (“CD”). These documents must be clearly marked as “Confidential Business Information.”

If providing your response electronically, it must be submitted on a CD in Portable Document Format (“PDF”) and comply with the following requirements:

- (a) CBI and personal privacy information (“PII”) should be provided on separate media (e.g., a separate CD) and marked as such to ensure information is appropriately handled.
  - (b) All documents originally smaller than 11 by 17 inches can be submitted electronically; any documents originally larger than 11 by 17 inches must be submitted in hard copy.
  - (c) Electronic PDF files must be text-searchable.
  - (d) The document index must clearly identify any single electronic document which has been separated into multiple electronic files (because of size limitation or otherwise) and each component file that comprises the full document.
3. Number Each Answer. Number each answer with the number of the question to which it corresponds.
  4. Provide the Best Information Available. You must provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered noncompliance with this Information Request.



5. Identify Information Sources. For each question, identify all persons and documents you relied on for your answer.
6. Confidential Information. You must provide the information requested even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. § 2.203(b). All information claimed to be confidential should be contained on separate sheet(s) and should be clearly identified as “trade secret,” “proprietary” or “company confidential”. Your confidentiality claim should be supported by the submission of information consistent with 40 C.F.R. Part 2. Information covered by a confidentiality claim will be disclosed by the EPA only to the extent, and only by means of the procedures, provided in 40 C.F.R. §§ 2.201-2.311. If no such claim accompanies the information received by the EPA, it may be made available to the public by the EPA without further notice to you.
- You should also provide a redacted version of the same document that removes all CBI and PII from the document. This redacted version of the document should remove all information that you claim is CBI or PII. Since all the CBI and PII is removed, this redacted version is not subject to the procedures of 40 C.F.R. Part 2. The EPA may make this redacted version available to the public without further notice to you.
7. Disclosure to the EPA Contractor. Information that you submit in response to this Information Request may be disclosed by the EPA to authorized representatives of the United States, pursuant to 40 C.F.R. § 2.310(h), even if you assert that all or part of it is confidential business information. The EPA may provide this information to its contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information that you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within twenty (20) business days of receiving this Information Request.
8. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from your responses, included on separate sheet(s), and marked as “Personal Privacy Information.” You should note, however, that unless prohibited by law, the EPA may disclose this information to the general public without further notice to you.
9. Objections. While you may object to certain questions in this Information Request, you must provide responsive information notwithstanding those objections. To object without providing responsive information may subject you to the penalties set out in the cover letter.
10. Privilege. If you claim that any document responsive to this Information Request is a communication for which you assert that a privilege exists for the entire document, identify (see Definitions) the document and provide the basis for asserting the privilege. For any document for which you assert that a privilege exists for a portion of it, provide the portion of the document for which you

are not asserting a privilege, identify the portion of the document for which you are asserting the privilege, and provide the basis for such an assertion. Please note that regardless of the assertion of any

privilege, any facts contained in the document that are responsive to the Information Request must be disclosed in your response.

11. Declaration. You must complete the enclosed declaration, in hard copy with an original signature, certifying the accuracy of all statements in your response.

Enclosure B  
Information Request  
USS Lead Site

**DEFINITIONS**

1. The terms “agreement” and “arrangement” means every separate contract, transaction, or invoice, between two or more persons, whether written or oral.
2. The terms “and” and “or” shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of this request any information which might otherwise be construed to be outside its scope.
3. “Disposal” shall mean the discharge, deposit, injection, dumping, spilling, leaking, or placing of any material and/or hazardous substance into or on any land or water so that such material and/or hazardous substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.
4. The terms “document” and “documents” mean any method of recording, storing or transmitting information. “Document” includes, but is not limited to:
  - (a) writings of any kind, including, but not limited to, any of the following:
    - i. letters, memoranda, fax transmittals;
    - ii. meeting minutes, telephone records, notebooks;
    - iii. agreements and contracts;
    - iv. reports to shareholders, management, or government agencies;
    - v. transportation manifests;
    - vi. copies of any document;
  - (b) any film, photograph, or sound recording on any type of device;
  - (c) any blueprints or drawings; and
  - (d) attachments to, or enclosures with, any document.
5. “Environment” shall have the same definition as that contained in Section 101(8) of CERCLA, and includes (A) the navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C.A §§ 1801 et seq., and (B) any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.
6. The term “facility” shall have the same definition as that contained in Section 101(9) of CERCLA, and includes (a) any building, structure, installation, equipment, pipe or pipeline

(including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (b) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

7. "Hazardous Substance" or "Hazardous Substances" shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.
8. The term "identify" means, with respect to a natural person, to set forth: (a) the person's full name; (b) present or last known business and home addresses and telephone numbers; and (c) present or last known employer (include full name and address) with job title, position or business.
9. The term "identify" means, with respect to a corporation, partnership, business trust or other entity, to set forth: (a) its full name; (b) complete street address; (c) legal form (e.g., corporation, partnership); (d) the state under whose laws the entity was organized; and (e) a brief description of its business.
10. The term "identify" means, with respect to a document, to provide: (a) its customary business description (e.g., letter, invoice); (b) its date; (c) its number if any (e.g., invoice or purchase order number); (d) the identity of the author, addressee, and/or recipient; and (e) a summary of the substance or the subject matter. Alternatively, Respondent may provide a complete copy of the document.
11. "Material" or "Materials" shall mean any and all objects, goods, products, by-products, substances, or matter of any kind, including but not limited to wastes.
12. The term "person" shall have the same definition as that contained in Section 101(21) of CERCLA, and includes an individual, firm corporation, association, partnership, consortium, joint venture, U.S. government, State, municipality, commission, political subdivision of a State or any interstate body.
13. The term "property" means any interest in real or personal property whatsoever, including fee interests, leases, licenses, rental and mineral rights.
14. "RCRA" shall mean the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).
15. "Release" shall have the same definition as that contained in Section 101(22) of CERCLA, and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including but not limited to the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

16. The term “Respondent” or “you” means United States Metals Refining Company and its predecessors in interest, together with their agents, employees, and contractors.
17. “Site” or “USS Lead Site” shall mean the U.S. Smelter and Lead Refinery, Inc. Superfund Site located at East Chicago, Indiana.
18. “Treatment” and “Treat” shall mean any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any material and/or hazardous substance so as to neutralize such material and/or hazardous substance or so as to render such material and/or hazardous substance nonhazardous, safer for transport, amenable for recovery, amendable for storage, or reduced in volume. Such terms include any activity or processing designed to change the physical form or chemical composition of a material and/or hazardous substance so as to render it nonhazardous.
19. “Waste” or “Wastes” shall mean and include trash, garbage, refuse, by-products (including but not limited to dross, dust, scrap, skim, slag, sludge, sump, and sweepings), solid waste, hazardous waste, hazardous substances, whether solid, liquid, or sludge, including but not limited to containers for temporary or permanent holding of such wastes.

Enclosure C  
Information Request  
USS Lead Site

**REQUESTS**

1. Identify the respondent(s) to these questions.
2. Identify all persons consulted in the preparation of the answers to this request for information.
3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons.
4. For each and every question contained herein, identify all documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the question and provide true and accurate copies of all such documents.
5. Describe the lead-bearing material that Respondent arranged to have treated, disposed of, or transported to the Site.
6. Provide the correct name and addresses of Respondent's plants and other facilities where Respondent carried out operations that acquired, generated, or came to possess lead-bearing material that came to be located at the Site.
  - a. For each of those plants or facilities, provide a brief description of the nature of Respondent's operations at that plant or facility, including the date such operations commenced and concluded; and
  - b. Provide a brief description of the types of work performed at each plant or facility, including but not limited to the industrial, chemical, or institutional processes and treatments undertaken at each plant or facility.
7. Describe any arrangement whereby Respondent came to own or possess lead-bearing material that came to be located at the Site, without that material being processed or routed through any of Respondent's plants or facilities.
8. What was the monthly or annual quantity of lead-bearing material that Respondent arranged to have treated, disposed of, or transported to the Site?
9. What was the total quantity of lead-bearing material that Respondent arranged to have treated, disposed of, or transported to the Site?
10. Was lead-bearing material treated at Respondent's plants or facilities before transport to the Site?
  - a. What treatment process(es) took place?
  - b. What was the result?
11. Was lead-bearing material separated (e.g., physically or chemically) from other materials at Respondent's plants or facilities, before transport to the Site?

12. Describe how each type of lead-bearing material was collected and stored at Respondent's Facility prior to disposal/treatment/recycling/sale/transport at or to the Site.
13. Identify any third parties other than USS Lead that Respondent sent or arranged to send lead-bearing material to for treatment, and the dates the lead-bearing material was sent for treatment, where they were sent for treatment, what treatment processes took place, the result of the treatment process, and the disposition of the lead-bearing material.
14. Apart from contracting for treatment or disposal of lead-bearing material through another entity or party, did Respondent ever dispose of lead-bearing material itself?
  - a. If so, describe in detail the circumstances of Respondent's disposal, including what was disposed, when the disposal(s) took place, where the substances were disposed, and the quantity, amount, or volume disposed. Include any documentation relating to such disposal.
15. With respect to lead-bearing material of the type treated at, disposed of at, or transported to the Site, explain what Respondent did with these materials if Respondent could not find a buyer to purchase such material, including all methods of use, handling, treatment, sale, recycling, and disposal, and how much Respondent paid or received for each such method.
16. For each type of lead-bearing waste, describe Respondent's agreements or other arrangements for its disposal, treatment, storage, recycling, or sale.
  - a. Provide any agreement and document, including waste logs, journals, or notes, related to any transfer of lead-bearing waste from Respondent's facilities or plants that came to be located at the Site.
  - b. Provide all correspondence and written communications, including but not limited to emails, between Respondent and U.S. Metals Refining Company, U.S. Smelter and Lead Refinery, Inc., U.S. Smelter, Refining and Metals Company, regarding the Respondent's lead-bearing waste that came to be located at the Site.
17. Did Respondent sell or transfer the lead-bearing waste to other locations besides the Site?
  - a. If so, provide any agreements and documents, including waste logs, journals, or notes, related to the transfer of the lead-bearing waste from Respondent's plants or facilities to locations other than the Site.
18. Did Respondent ever request from the buyer that lead or lead-bearing material be returned to Respondent after buyer's treatment or handling of the lead-bearing waste was completed?
  - a. If so, explain the details of such transaction(s). Provide any documentation relating to any return to Respondent of lead or lead-bearing wastes.
19. Identify, describe, and provide all documents that refer or relate to:
  - a. The nature, including the chemical content, characteristics, physical state (e.g., solid, liquid) and quantity (volume and weight) of all lead-bearing waste involved in each arrangement transferring materials from any facility owned or operated by Respondent to any other facility.
  - b. The condition of the transferred material containing hazardous substances when it was stored, disposed of, treated or transported for disposal or treatment.



- c. The markings on and type, condition and number of containers in which the hazardous materials were contained when they were stored, disposed, treated, or transported for disposal or treatment.
  - d. All tests, analyses, analytical results and manifests concerning each lead-bearing waste involved in each transaction. Include information regarding who conducted the test and how the test was conducted (batch sampling, representative sampling, splits, composite, etc.)
20. Provide any correspondence or other communications between Respondent and the buyer regarding what the buyer planned to do with the lead-bearing waste.

Enclosure D  
Information Request  
USS Lead Site

**DECLARATION**

I declare under penalty of perjury that I am authorized to respond on behalf of the Respondent and that the foregoing is complete, true, and correct.

Executed on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

non responsive

non responsive

non responsive



## EXHIBIT A

### U.S. SMELTER AND LEAD REFINERY, INC., SUPERFUND SITE EAST CHICAGO, INDIANA (SITE)

#### ALU RESPONSES TO EPA REQUESTS

##### Objections to Instructions and Definitions, and General Objections to the Request.

Alcatel-Lucent USA Inc. (ALU) makes the following objections to the Definitions and Instructions included with EPA's Request, and also objects to portions of the questions included in the Request.

1) The Definitions define "waste" or "wastes" extremely broadly as "trash, garbage, refuse, by-products (including but not limited to dross, dust, scrap, skim, slag, sludge, sump, and sweepings), solid waste, hazardous waste, [and] hazardous substances, whether solid, liquid or sludge, including but not limited to containers for temporary or permanent holding of such wastes." Similarly, the Definitions define "material" or "materials" as "any and all objects, goods, products, by-products, substances, or matter of any kind, including but not limited to wastes." ALU objects to these definitions as overbroad, unduly burdensome, and not reasonably calculated to lead to the disclosure of information concerning matters governed by the Comprehensive Environmental Liability, Response and Compensation Act (CERCLA), and so not properly the subject of a request for information under CERCLA Section 104(e). ALU assumes that the questions are directed to hazardous substances and hazardous wastes.

2) The Definitions define "Respondent" or "you" as "United States Metals Refining Company and its predecessors in interest, together with their agents, employees, and contractors." ALU assumes that this is a typographical error, and will answer the Request on its own behalf as the successor for purposes of certain environmental responsibilities to the Western Electric Company, based on available records and information, including any records or information which could be located from the Western Electric time period.

3) ALU objects to the overbroad scope of the questions which instruct it to search all documents and identify all persons. ALU is a widespread organization with tens of thousands of present and former officers, employees, consultants and agents, numerous current manufacturing, service, sales and administrative facilities around both this country and international locations, and untold numbers of documents, all before taking into consideration personnel, facilities, or documents transferred or reorganized during the more than thirty years since the breakup of the Bell Telephone System. ALU will limit the scope of the Request to Western Electric and ALU operations in U.S.-based locations that might reasonably have used the Site.

- 4) In addition, ALU objects to EPA's Request:
- a. as overbroad and unduly burdensome to the extent it seeks information for the entire history of the Site, despite the nexus information provided to ALU by EPA which links ALU's predecessor Western Electric to only part of the Site's operational history;
  - b. to the extent EPA's questions are vague, ambiguous, overbroad, or too indefinite to be capable of reasonable interpretation;
  - c. to the extent the requested information is publicly available and equally accessible by EPA;
  - d. as seeking information outside the scope of EPA's authority or not relevant to the purpose stated in the Request;
  - e. to the extent it may be interpreted to ask ALU to divulge information protected by the attorney-client privilege, the work-product doctrine, or other available privilege or protection;
  - f. to the extent it calls for ALU to make legal conclusions; or
  - g. to the extent it requires it to develop or create information that does not exist, documents that do not exist, or documents or information that ALU is not otherwise required to create or maintain.

EPA's Information Request *Questions* and ALU's Answers.

*1. Identify the respondent(s) to these questions.*

ANSWER: Alcatel-Lucent USA Inc., as successor for purposes of certain environmental responsibilities to the Western Electric Company.

*2. Identify all persons consulted in the preparation of the answers to this request for information.*

ANSWER: See objections. Without waiver of these objections, in addition to counsel, the persons listed below assisted with or were consulted in the preparation of ALU's answers to EPA's Request. All contact with the persons named in this response must be made through counsel.

Gary M. Fisher, Environmental Engineering Manager, ALU/Nokia Corporation.  
Dana Chambliss, Document and Records Retention Manager, ALU/Nokia.



3. *If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons.*

ANSWER: ALU has no information about the Site other than what has been provided by the United State and has nothing to suggest that additional sources of information, documents or persons are available.

4. *For each and every question contained herein, identify all documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the question and provide true and accurate copies of all such documents.*

ANSWER: ALU objects to the overly broad and unduly burdensome scope of this request, insofar as it requests identification of all documents “consulted, examined, or referred to,” even if no responsive information was contained in such documents.

Without waiver of this objection, ALU states that it searched historical document indexes for potential references to: the Site name; Site address (and its component parts); multiple versions of the names of the Sites’ historical owners and operators; disposal records for lead, antimony, antimonial lead, and multiple versions of dross; the contract and purchase order numbers found on the nexus transaction documents provided by EPA; purchase orders or manifests for the Hawthorne Works and Baltimore Works plants generally; the name of the Western Electric purchasing agent for the Hawthorne Works plant in 1912; and any lead disposal procedures or records for Western Electric generally, and the Hawthorne Works and Baltimore Works plants specifically.

None of the searches produced responsive documents or information.

5. *Describe the lead-bearing material that Respondent arranged to have treated, disposed of, or transported to the Site.*

ANSWER: ALU has no information about transactions involving lead-bearing materials and the Site other than those shown in document provided to ALU by EPA, and objects to any attempt to require ALU to “describe” such materials. The documents provided by EPA show transactions dating from 1912 to 1914 and late 1927 to early 1925, and speak for themselves. ALU has no information about these materials or transactions other than that contained in the documents themselves.

6. *Provide the correct name and addresses of Respondent’s plants and other facilities where Respondent carried out operations that acquired, generated, or came to possess lead-bearing material that came to be located at the Site.*

*a. For each of those plants or facilities, provide a brief description of the nature of Respondent’s operations at that plant or facility, including the date such operations commenced and concluded; and*

*b. Provide a brief description of the types of work performed at each plant or facility, including but not limited to the industrial, chemical, or institutional processes and treatments undertaken at each plant or facility.*

ANSWER: As stated above, ALU has no information about transactions between any plants for which it has environmental responsibility and the Site except those documents provided to ALU by EPA. Based on those documents, Western Electric's Hawthorne Works plant sold lead-bearing materials to the owner or operator of the Site from 1912 to 1914 and again in late 1927 to early 1928.

The Hawthorne Works plant opened in 1905 and closed in 1983, consisted of more than 100 buildings with 2.5 million square feet of floor space, and at its peak employed more than 40,000 workers. Hawthorne Works manufactured 14,000 different types of apparatus during its 78 year history and, from 1914 to 1925, was Western Electric's only manufacturing plant. Among other items, Hawthorne Works produced cable, rod, wire, step-by-step and panel dial central office switching equipment, No. 1, No. 2 and No. 101 electronic switching systems, PBX switching systems for varied applications, relays, capacitors, switches, jacks, keys, inductors, loading coils, ferrite cores, tools, and thin film circuits. Prior to Western Electric's 1931 acquisition of the Nassau Smelting and Refining Company (Tottenville, Staten Island, NY), the Hawthorne Works plant also reclaimed nonferrous metals from scrap produced by Western Electric's manufacturing and supply operations. We believe that after Western Electric acquired Nassau Smelting and Refining Company (later renamed Nassau Metals Corporation), metals reclamation at Hawthorne Works ceased.

*7. Describe any arrangement whereby Respondent came to own or possess lead-bearing material that came to be located at the Site, without that material being processed or routed through any of Respondent's plants or facilities.*

ANSWER: ALU objects that this question is vague and confusing. Without waiver of this objection, if the intent of the question is to determine whether ALU's predecessor Western Electric acted as a commercial or third-party broker for materials sent to the Site, based on the documents provided to ALU by EPA, the answer appears to be no.

*8. What was the monthly or annual quantity of lead-bearing material that Respondent arranged to have treated, disposed of, or transported to the Site?*

ANSWER: ALU objects that the only documents or information available to it indicating shipments of lead-bearing materials from Western Electric to the Site were provided to ALU by EPA, and those documents appear to represent discrete and irregular sets of transactions, not repetitive monthly or annual transactions. The monthly and annual totals of those shipments are as available to EPA as to ALU.

Without waiver of this objection, FTI (the database consultant for certain owner/operator parties) tabulated the volumes shown on the Hawthorne Works' shipment documents

and provided ALU with a spreadsheet showing those volumes. According to that spreadsheet, from February 1912 to December 1914, Hawthorne Works sent 1,609,231 pounds (805 tons) of lead-bearing material to the Site, and from September of 1927 to January of 1928, Hawthorne Works sent an additional 790,018 pounds (395 tons), for a total of 2,399,249 pounds (1,200 tons).

9. *What was the total quantity of lead-bearing material that Respondent arranged to have treated, disposed of, or transported to the Site?*

ANSWER: See answer to request No. 8, above.

10. *Was lead-bearing material treated at Respondent's plants or facilities before transport to the Site?*

a. *What treatment process(es) took place?*

b. *What was the result?*

ANSWER: ALU's only information about the materials Western Electric sent to the Site comes from the documents provided by EPA, which are as available to EPA as to ALU. There does not appear to be information in those documents about the sources of the materials shipped to the Site or any prior handling, processing, or "treatment" of the materials.

11. *Was lead-bearing material separated (e.g., physically or chemically) from other materials at Respondent's plants or facilities, before transport to the Site?*

ANSWER: ALU's only information about the materials Western Electric sent to the Site comes from the documents provided by EPA, which are as available to EPA as to ALU. There does not appear to be information in those documents about any physical or chemical separation of these materials at Hawthorne Works prior to shipment to the Site, other than assembling them into lots for rail shipment to the Site.

12. *Describe how each type of lead-bearing material was collected and stored at Respondent's Facility prior to disposal/treatment/recycling/sale/transport at or to the Site.*

ANSWER: ALU's only information about the materials Western Electric sent to the Site comes from the documents provided by EPA, which are as available to EPA as to ALU. There does not appear to be information in those documents about the collection or storage of these materials at Hawthorne Works prior to shipment to the Site, other than assembling them into lots for rail shipment to the Site.

13. *Identify any third parties other than USS Lead that Respondent sent or arranged to send lead-bearing material to for treatment, and the dates the lead-bearing material was sent for treatment, where they were sent for treatment,*

*what treatment processes took place, the result of the treatment process, and the disposition of the lead-bearing material.*

ANSWER: ALU objects to this question as overly broad, unduly burdensome, not limited in time or geography, beyond the scope of a Site-specific CERCLA information request, and irrelevant to transactions involving the USS Lead Site.

Without waiver of these objections, ALU's predecessor Western Electric was the manufacturing, distribution, and repair arm of the Bell Telephone System, and during the 1906-1985 operational time frame for the USS Lead Site, Western Electric operated at least 25 major manufacturing facilities and 35 distribution and repair shops throughout the United States. As noted in response to question No. 6, Western Electric reclaimed nonferrous metals from manufacturing and supply scrap at the Hawthorne Works plant in the early part of the 1900's, and at the Nassau Metals reclamation plant on Staten Island, New York by at least 1931. In addition, Western Electric sold or arranged for the reclamation of lead-bearing scrap at numerous other recycling facilities throughout the United States. None of these reclamation or recycling transactions at locations other than the USS Lead Site are relevant to the USS Lead Site or to any Western Electric transactions involving that Site.

*14. Apart from contracting for treatment or disposal of lead-bearing material through another entity or party, did Respondent ever dispose of lead-bearing material itself?*

*a. If so, describe in detail the circumstances of Respondent's disposal, including what was disposed, when the disposal(s) took place, where the substances were disposed, and the quantity, amount, or volume disposed. Include any documentation relating to such disposal.*

ANSWER: See responses to questions No. 6 and 13, above.

*15. With respect to lead-bearing material of the type treated at, disposed of at, or transported to the Site, explain what Respondent did with these materials if Respondent could not find a buyer to purchase such material, including all methods of use, handling, treatment, sale, recycling, and disposal, and how much Respondent paid or received for each such method.*

ANSWER: ALU objects to this question as overly broad, unduly burdensome, not limited in time or geography, beyond the scope of a Site-specific CERCLA information request, and irrelevant to transactions involving the USS Lead Site. Without waiver of these objections, ALU has no information about the existence or terms of any Western Electric non-sale transactions of lead-bearing materials with or to persons or facilities not affiliated with the USS Lead Site or its owners or operators, and does not see how such transactions would have any relevance to the USS Lead Site.

16. *For each type of lead-bearing waste, describe Respondent's agreements or other arrangements for its disposal, treatment, storage, recycling, or sale.*

*a. Provide any agreement and document, including waste logs, journals, or notes, related to any transfer of lead-bearing waste from Respondent's facilities or plants that came to be located at the Site.*

*b. Provide all correspondence and written communications, including but not limited to emails, between Respondent and U.S. Metals Refining Company, U.S. Smelter and Lead Refinery, Inc., U.S. Smelter, Refining and Metals Company, regarding the Respondent's lead-bearing waste that came to be located at the Site.*

ANSWER: ALU's only documents, information about agreements, or other indicia of arrangements involving shipments of lead-bearing materials to the Site or its owners or operators come from the documents provided to ALU by EPA, which are as available to EPA as to ALU. Insofar as these documents date from February of 1912 to December 1914 and September of 1927 to January of 1928, they do not include email correspondence.

17. *Did Respondent sell or transfer the lead-bearing waste to other locations besides the Site?*

*a. If so, provide any agreements and documents, including waste logs, journals, or notes, related to the transfer of the lead-bearing waste from Respondent's plants or facilities to locations other than the Site.*

ANSWER: See responses to question Nos. 6, and 13 through 16, above.

18. *Did Respondent ever request from the buyer that lead or lead-bearing material be returned to Respondent after buyer's treatment or handling of the lead-bearing waste was completed?*

*a. If so, explain the details of such transaction(s). Provide any documentation relating to any return to Respondent of lead or lead-bearing wastes.*

ANSWER: ALU objects that its only information about shipments of lead-bearing materials to the Site come from the documents provided to ALU by EPA, which are as available to EPA as to ALU and which speak for themselves. Without waiver of this objection, it appears from those documents that Western Electric sold lead or lead-bearing materials to the owners or operators of the Site and also bought lead or lead-bearing products from that those owners and operators, and that the Site owner/operators traced the lead which originated with Western Electric into the products purchased by Western Electric after reclamation at the Site. ALU has no information about whether Western Electric "requested" this tracing and return. Information about

any other sale, reclamation, and purchase transactions between Western Electric and facilities other than the USS Lead Site is irrelevant to, and beyond the scope of, EPA's information request for this Site.

19. *Identify, describe, and provide all documents that refer or relate to:*

*a. The nature, including the chemical content, characteristics, physical state (e.g., solid, liquid) and quantity (volume and weight) of all lead-bearing waste involved in each arrangement transferring materials from any facility owned or operated by Respondent to any other facility.*

*b. The condition of the transferred material containing hazardous substances when it was stored, disposed of, treated or transported for disposal or treatment.*

*c. The markings on and type, condition and number of containers in which the hazardous materials were contained when they were stored, disposed, treated, or transported for disposal or treatment.*

*d. All tests, analyses, analytical results and manifests concerning each lead-bearing waste involved in each transaction. Include information regarding who conducted the test and how the test was conducted (batch sampling, representative sampling, splits, composite, etc.).*

ANSWER: ALU objects to this question as overly broad, unduly burdensome, not limited in time or geography, beyond the scope of a Site-specific CERCLA information request, and irrelevant to transactions involving the USS Lead Site.

Without waiver of these objections, see response to question No. 13, above.

20. *Provide any correspondence or other communications between Respondent and the buyer regarding what the buyer planned to do with the lead-bearing waste.*

ANSWER: ALU objects to this question as overly broad, unduly burdensome, not limited in time or geography, beyond the scope of a Site-specific CERCLA information request, and irrelevant to transactions involving the USS Lead Site.

Without waiver of these objections, see response to question No. 13, above.